

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

PAULINE C. PETERSON,

CIVIL NO. 17-2778 (DSD/DTS)

Plaintiff,

v.

REPORT AND RECOMMENDATION

KARL SAUSKOJUS, et al.,

Defendants.

The above matter came before the undersigned upon the Court's May 4, 2018 Order [Docket No. 11]. For the reasons that follow, the Court recommends that this case be DISMISSED WITHOUT PREJUDICE for failure to prosecute.

FINDINGS OF FACT

The Complaint was filed on July 11, 2017 [Docket No. 1]. An Amended Complaint was filed on August 2, 2017 [Docket No. 3]. Plaintiff was granted to proceed *in forma pauperis* on September 11, 2017 [Docket No. 4].

On May 4, 2018, nearly 10 months after the Complaint was filed with the Court, the Court issued an Order directing Plaintiff to (1) file an application for entry of default; or (2) advise the Court in writing of any good cause to the contrary [Docket No. 11]. The Order additionally stated, "Unless Plaintiff complies with this order within 30 days of this date, this case will be dismissed for lack of prosecution." *Id.* As of the date of this Report and Recommendation, Plaintiff has not filed any documents with the Court indicating that she has complied with the Court's May 4, 2018 Order.

### CONCLUSIONS OF LAW

A district court has “inherent power to dismiss *sua sponte* a case for failure to prosecute.” *Sterling v. United States*, 985 F.2d 411, 412 (8<sup>th</sup> Cir. 1993) (citing Fed. R. Civ. P. 41(b); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-32 (1962)). The authority to dismiss a case on these grounds is rooted in the common law and is “necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the District Courts.” *Link*, 370 U.S. at 629-30.

In the present case, Plaintiff's Complaint was filed over 11 months ago, and it appears that Defendants have yet to be served. Plaintiff has failed to respond to the Court's Order instructing her to take action on her claims, despite instructions that failing to do so would result in her claims being dismissed. See Order, Docket No. 11. Accordingly, the Court concludes that Plaintiff has abandoned her claims. Therefore, the case must be dismissed for want of prosecution.

### RECOMMENDATION

Based on all of the files, records and proceedings herein, IT IS HEREBY RECOMMENDED that this case be DISMISSED WITHOUT PREJUDICE for failure to prosecute.

Dated: June 11, 2018

*s/ David T. Schultz*  
DAVID T. SCHULTZ  
United States Magistrate Judge

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).